IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2118 OF 2006
AND
CRIMINAL WRIT PETITION NO.2119 OF 2006

Vinay Agencies and others ...Petitioners
(in both the Petitions)

vs.

M/s.M. & D. Sales & Services
State of Maharashtra ...Respondents
(in both the Petitions)

Mr.Girish Agrawal i/b M/s.R.M.Agrawal & Associates for the Petitioners
Mr.U.V.Nikam, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : OCTOBER 3,2006.

P.C.:

1. Heard Shri Agrawal appearing for the Petitioners. As facts of both the cases are same, I am referring to the facts of the case in Writ Petition No.2118/2006.

2. The Petitioners are arraigned as accused in a complaint filed by the first Respondent under section 138 of the Negotiable Instruments Act, 1881.

3. By this Petition under Article 227 of Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, the Petitioners have taken exception to the order dated 16th August 2006 passed below Application at Exh.21 by which the application made by the first Respondent for production of original documents has been allowed. The challenge in this Petition is to the another order dated 16th August 2006 passed by the learned Trial Judge below application at Exh.18 by which the first Respondent has been permitted to recall its

witness.

4. Shri Agrawal for the Petitioners submitted that by the impugned order, the first Respondent has been allowed to fill up the lacuna in the case. He submitted that the order has been passed at the fag end of the trial. He submitted that the orders could not have been passed by invoking section 311 of the Code of Criminal Procedure, 1973.

5. I have carefully considered the submissions. The order below Exh.21 discloses that the xerox copies of the relevant documents were already filed on record and by the impugned order the originals of the xerox copies have been permitted to be produced. By the second order, witness examined by the first Respondent has been permitted to be recalled. It is obvious that further examination will be confined to proof of the documents which are sought to be produced as per the order passed below Exh.21. It is also obvious that opportunity will be available to the Petitioners to cross examine the said witness.

6. No case is made out for interference in a Petition under 227 of Constitution of India read with section 482 of the said Code.

7. Subject to what is stated above, Writ Petitions are rejected.

JUDGE